



**Delaware Thoroughbred Racing Commission
Minutes of Meeting Held On
March 9, 2016**

The Delaware Thoroughbred Racing Commission held a meeting on Wednesday, March 9, 2016, at 10:30 a.m., in the Horsemen's Office, at Delaware Park, 777 Delaware Park Blvd, Wilmington, DE 19804

The following Commission members were present:

W. Duncan Patterson, Jr., Chairman
Edward J. Stegemeier, Secretary/Commissioner (via teleconference)
Henry J. Decker, Commissioner
Debra M. Killeen, Commissioner
Richard A. Levine, Esq., Commissioner

The following individuals also were present:

John F. Wayne, DTRC, Executive Director
Andrew Kerber, Esq., Deputy Attorney General, Commission Counsel
Oliver Cleary, Esq., Deputy Attorney General
Kevin DeLucia, Sr. Vice President & CFO, Racing-Administration, Delaware Park
John E. Mooney, Delaware Park, Executive Director of Racing
Chris Sobocinski, Delaware Park, Racing Information Coordinator
Nancy Myshko, Delaware Park, Sr. Vice President, HR/EVS/F&B/Mutuel/Sec.
Bessie Gruwell, DTHA Executive Director
Francis J. Swift, Jr., DTRC, Inspector
Janet Ritchey, Owner, DTHA Board Member
Tracy Nunley, DTHA Board Member
Pam Rash, DTRC, Administrative Asst. (Recording Minutes)

1. WELCOME & CALL TO ORDER

At approximately 10:30 a.m., Chairman Duncan Patterson called the meeting to order.

2. APPROVAL OF MINUTES

Upon a motion duly made (Decker) and seconded (Killeen) minutes of January 13, 2016 were unanimously approved.

3. OLD BUSINESS

A. Exchange Wagering

Kevin DeLucia stated that the only new information was that New Jersey planned to go live this year. Only New Jersey residents are eligible and only New Jersey races. Delaware Park has not and will not this year grant them authority to use Delaware's races for Exchange Wagering. It could be open to other races throughout the U.S. but is only open to New Jersey residents. It is state-by-state. He deferred to DAG Andrew Kerber about whether it was legal in Delaware and if there needs to be a legislative change to allow it.

Chairman Patterson indicated The Jockey Guild is concerned about it and is lobbying various commissions to not allow it in their jurisdictions. Mr. DeLucia confirmed Bet Fair is the group that handles the Exchange Wagering. There was question as to whether betting on Delaware races could be happening internationally and Delaware would not know about it. It was agreed that this could be true and it very well could be happening. Mr. DeLucia understood that it does not go through the Tote system. The bets go through the BetFair system and are not part of Delaware Park's betting pool.

Commissioner Decker questioned the efficacy because people can bet against a horse to win. Mr. DeLucia stated he had a general understanding of how it works: Someone must accept the wager that is made; otherwise it is not a bet. It is open to integrity issues. Chairman Patterson indicated there is exchange wagering in England and there has not been many cases of a jockey pulling up.

B. Worker's Compensation Insurance

DAG Andrew Kerber reported that the long-standing issues with the Hot Walker have been resolved with a settlement. The hearing with the Industrial Accident Board did not happen because the case was settled prior to the hearing. Mr. John Wayne indicated he spoke with Mr. Weiss, the Hot Walker's attorney. Mr. Weiss felt that the actions of the investigators and the Commission helped this matter come to a successful conclusion and said thank you for their involvement ensuring that justice was served.

Commissioner Levine asked for clarification about the DTRC rule indicating trainers have to cover their employees with Worker's Compensation. Mr. DeLucia indicated it is a state law and Delaware Park does indicate on the stall application the requirements to have general liability insurance and Worker's Compensation. DAG Kerber stated that for a person to be on a roster, they must be covered by someone's Worker's Compensation policy. Commissioner Decker questioned how someone can fall through the slats. DAG Kerber indicated that the Commission has two (2) rules (2.6.2 & 7.3.3) stating that all owners and trainers shall carry Worker's Compensation on all their employees. He felt it could not be any clearer. DAG Kerber introduced DAG Oliver Cleary who will be working as prosecuting attorney with the stewards. DAG Cleary also represents the Department of Labor and Worker's Compensation. They have discussed this and with this specific Stable Employee's case, the trainer stated that the employee was contractual and an independent contractor. That is a position some employees will take and there are various legal standards, but the Department of Labor does not look favorably on this. To be considered an independent contractor, the person sets their own schedule – essentially be given a job and then go do it (i.e. a house painter hired to paint a house where the painter obtains the material, determines the time and how it will be done). When working for someone in the stable area and the person is told to do something specific with a horse and told when to do it, it becomes a different situation.

Commissioner Decker questioned whose rule it is to have a list of employees. DAG Kerber indicated it is a track rule. DAG Kerber understood there is concern about some owners/trainers not employing people full-time and using people who work for many owners and trainers. Bessie Gruwell explained that some (i.e. an Exercise Rider) works for many different owners and trainers and is not on someone's roster. Tracy Nunley indicated that to get a license however, an Exercise Rider, for example, has to be on someone's badge list. A trainer or owner has to sign for them to get a license. Fran Swift stated that Exercise Riders are required to have Health insurance.

There was discussion about whether an Exercise Rider is considered an employee of the owner or trainer they are riding for. Commissioner Levine questioned whether trainers and owners can insure workers by category knowing the person will change from day to day. DAG Cleary indicated it can be done. Commissioner Levine stated he would like to see the rule changed to state coverage of employees and contractors knowing it is an insurable entity. He feels there has to be a solution so there are no workers without coverage. Mr. DeLucia felt it would be difficult to find insurance companies willing to write policies to cover contractors and the rule would have to state that an owner or trainer must have employees and cannot use an independent contractor. He stated that per the law, self-employed individuals are not required to have Workers Compensation.

Commissioner Decker asked DAG Cleary if an Exercise Rider, who works as an independent contractor, gets injured riding for a trainer could that Exercise Rider file a Worker's Compensation claim against the trainer they were riding the horse for even though that Exercise Rider rides for several people that morning. DAG Cleary stated it is theoretically possible but is very fact specific. It appears it could be a case of employee misclassification issues or work place fraud. It would also be governed by the Fair

Labor Act and the US Department of Labor has several tests to determine who is an independent contractor and who is an actual employee. Commissioner Killeen felt and DAG Cleary confirmed that it is a case-by-case situation. DAG Cleary referred again to the working situation; if the person is using their own tools, setting their own hours vs. a person being directed on a precise day-by-day basis, using their uniform, driving their truck, etc. It would be very fact specific.

Bessie Gruwell stated the Horsemen met with Delaware Park and discussed looking at the possibility of obtaining a blanket Worker's Compensation policy. They are looking at doing an RFP and doing Due Diligence. They want to obtain information and see if it is a possibility.

DAG Cleary felt that there are companies out there that will write a blanket policy to cover anyone working on the track. He referenced another company who did it for a construction project regardless if the contractors had their own policies. The only issue would be in how to pay for it.

C. Rule Changes and Additions

DAG Kerber addressed item iv first.

iv. Approval of proposed amendment at December, 2015 meeting regarding whipping rule

The change proposed at the December 2015 DTRC meeting to delete the whipping rule currently found at rule 10.9.4 and to adopt a new whipping rule as rule 14.18.2 that adds the words "excessive, abusive" to the text of the former whipping rule 10.9.4 was published in the December 2015 Register. No comments were received. The Commission voted to make the change final.

Upon a motion duly made (Decker) and seconded (Levine) it was voted unanimously to approve the Whipping Rule Amendment as proposed.

DAG Kerber addressed the changes proposed at the January 2016 DTRC meeting (i. Claiming Rule [13.12.3], ii. Foal Papers – Registration Certificate [10.1.1], iii. Helmet and Vest Standards [8.15]) that were published as proposals in the March Register and will be voted on at the April meeting. Chairman Patterson asked DAG Kerber if these would be in effect by the start of the meet. DAG Kerber indicated they would be in effect unless there are comments or changes at the April meeting.

Commissioner Levine wanted to be sure the Delaware Park and the Horseman's organization will put the word out about these changes. Bessie Gruwell indicated she would like a copy of the proposals to publish in the Horseman's newsletter. DAG Kerber presented Ms. Gruwell a copy of the proposed changes at the end of the meeting.

There was discussion about the need for the foal papers. Ms. Gruwell indicated the Certified Program has authority from the Jockey Club to access the information from their site and print the information from their site. The only time the original foal papers are needed for them is if there is a claim or if a horse wins. The papers work the same as a car registration.

DAG Kerber shared a new State law called "Regulatory Flexibility Transparency and Accountability Acts" that requires the Commission to do an analysis of how the proposed changes affect small businesses or individuals; does it put burden on them or are they less burdensome requirements. Going forward, as part of the process for proposed regulations and changes, this will have to be considered, and the 11-page form must be completed or the proposed changes will not be published.

D. Technology Update

Chairman Patterson moved this topic to the Executive Session and asked Kevin DeLucia to attend the discussion.

E. Veterinarian Position

Executive Director John Wayne shared that five (5) applications were received and one (1) was withdrawn. Mr. Wayne thanked Dr. Brown who helped him with reviewing the applications and rating the applicants and provided some very insightful information. Mr. Wayne has had one (1) interview with Dr. Botts and

has one scheduled with Dr. Pastir. He has not heard back from Dr. Goldblatt. Mr. Wayne indicated there are adequate substitute vets available but more should be added and Dr. Peters expects to return around May 14th while being out on medical leave. Mr. Wayne is waiting for Mr. Mooney to provide the date that a vet needs to be on the backside so he can arrange for a substitute vet to cover prior to Dr. Peters' return. Mr. Wayne hopes to have a decision and response by the April 6 meeting.

Bessie Gruwell asked about what to do if an emergency happens in the meantime. Mr. Wayne told Ms. Gruwell that he should be notified so he can get one of our fill-in vets to come in.

F. Steward Position Update (not on the agenda)

Chairman Patterson stated there were 22 applicants which were pared down to 8 for interview. One person then withdrew. There were 3 interviews held on Monday, March 7 and 4 interviews will be held on Thursday, March 10. A decision should be made by the end of the week.

Commissioner Stegemeier signed off (via teleconference) from the meeting.

4. NEW BUSINESS

A. Truesdail Laboratories, Inc. – RMTC Audit & Review and EQAP

Mr. Wayne shared a letter received from Truesdail Laboratories indicating they passed the RMTC External Quality Assurance Program (EQAP) and they scored 100% on the proficiency evaluations. Mr. Wayne expressed his pleasure with the service and results they received last year. They were timely, punctual and there were no issues.

B. ARCI 2nd Town Meeting

Chairman Patterson shared that the ARCI held the 2nd Town Hall Meeting in Gulfstream trying to get consensus from constituents involved in racing from around the Country regarding the position on legislation having USADA taking over the drug testing, rules, etc. There were representatives from all facets of the business (trainers, jockeys, veterinarians, race track management, breeders, etc.). It was unanimous that the federal legislation as proposed was not the way to go. The group was asked what the major threat to the industry was. Almost everyone mentioned medication and compounding as issues.

Commissioner Decker questioned whether there has been any plan proposed as to how they would handle testing? Chairman Patterson indicated they have not. He gave a presentation at a steward's seminar in Virginia on problems with the legislation and a recap of a meeting with Travis Tygart he attended in December, 2015. There is no plan on how they will go from 8,400 tests to over 300,000 tests; the cost was going to be \$1,000 per test; there would be no appeals and no split samples with a 4-6 week turn-around time.

C. Racing Medication Testing Consortium Board Meeting

Chairman Patterson attended the RMTC Board meeting in Florida and reported that there will be four (4) additional therapeutic medications which will take the therapeutic list to 32. They will be handled at the ARCI Drug Testing Standards and Practices meeting (Chairman Patterson chairs) at the end of March where they will be approved or rejected, but will not be approved by ARCI until the summer meeting.

There were also changes in the threshold levels for xylazine and detomidine (two sedative/analgesic medications) and omeprazole (an anti-ulcer medication). Chairman Patterson felt this underscores that it is always a work in progress. There will also be discussions on changes to morphine and cocaine from an environmental standpoint. Also changes on handling methamphetamine.

There has been a problem getting other laboratories accepting split samples and a proposal is being proposed allowing tracks going to other laboratories for split samples.

Bessie Gruwell stated that she felt it would be advantageous to have a phase-in period when changes occur to the therapeutic medication list. Chairman Patterson agreed.

5. REPORT FROM DTRC EXECUTIVE DIRECTOR

Executive Director John Wayne indicated a written report for February 1 to March 31, 2016 will be presented at the April meeting. Mr. Wayne read into the record the following points of interest for the period February 1 to 29, 2016:

Summary of Activities Report for February, 2016

	<u>February 2016</u>	<u>Year-To-Date</u>
Number of Persons Fingerprinted	1	1
Fingerprint Fees Collected	\$79.00	\$79.00
DTRC Licenses Issued	64	680
Fines & Appeal Fees Collected	\$0.00	\$0.00
License Fees Collected	\$3,430	\$7,545.00

Other Statistics During February

ARCI National Surveys answered	3
Contacts from Police Agencies	12
Contacts from Video Lottery Enforcement	4
Freedom of Information Act Request for Info	0
National Racing Compact Reviews	3
National Racing Compact Applications Rec'd	9
Contacts from Racing Industry Groups	22
Contacts from other Racing Commissions	20
Contacts from other Race Associations	22
Contacts from the General Public	12
Contacts from Horsemen	21
Media Contacts	8
Contacts from Racing Officials Accreditation Program (ROAP)	26

Majority of the Media contacts were regarding two upcoming meetings for the Organization of Racing Investigators (ORI) which begins on Monday, March 14, with a welcome reception and runs through Wednesday night, March 16; followed by the Mid-Atlantic meeting on Thursday, March 17. Mr. Wayne indicated he would also be attending the ARCI meeting, leaving March 22 and returning on March 25.

There was one Freedom of Information (FOI) request in January from someone affiliated with PETA. They wanted a list of all the horses that broke down at Delaware Park in 2015. Through the Deputy Attorney General and the FOI Officer, the person was invited to take a look at or for us to compile the information a fee would be charged and they declined.

There were 14 investigations, 8 pertaining to Department of Finance uncollected tax issues, 3 National Racing Compact Review and 3 Interviews conducted for employees with questionable backgrounds employed by the race track.

Commissioner Decker asked if the Department of Finance gave a time limit. Mr. Wayne stated he put a time limit of 10 days from the date of the letter to contact the tax office and to his knowledge, everyone one on the list has done so with the exception of 2 that the letters came back undeliverable. When the Stewards return, Mr. Wayne will give them the judgments received from Secretary Cook's office and they can impose a sanction against them.

6. REPORT FROM DTRC CHIEF COMMISSION VETERINARIAN

Health Report

There was no report from the Commission Vet's office for February

7. DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION

Delaware Certified Thoroughbred Program Report

DTHA Executive Director, Bessie Gruwell filed their report for January-March. She reported that there were 13 applications received so far. There was a disqualification from a ruling with an additional payout of \$5,000 in December resulting in a total payout of \$945,750 in bonuses for 2015. The \$1,000,000 was received in February plus the interest payments for January (\$22.31) and February (\$180.09), and the Administrative Costs (\$50,000) were deducted leaving a starting balance of \$1,055,677 in bonus money to payout. The bonuses will remain the same at 50% - 25% to owners; 25% to certifiers.

8. PUBLIC COMMENT

Mr. Mooney shared that the stable area is open with 94 horses and there is training on the Training Track. He expects 5-6 new stables this year from Florida, Louisiana and Pennsylvania.

9. EXECUTIVE SESSION

Upon a motion duly made (Decker) and seconded (Levine), the meeting was adjourned and moved to Executive Session at approximately 11:50 a.m.

10. ADJOURNMENT

The meeting returned to public session at approximately and upon a motion duly made (Levine) and seconded (Decker) the meeting was adjourned at approximately 12:30 a.m.

DCTP Report - March 2016

2013 DCTP Applications	Weanlings	Yearlings	Totals
Jan - Mar	2	15	17
Apr - Jun	1	35	36
July - Sept	8	32	40
Oct - Dec	50	84	134
Total Applications	61	166	227

2014 DCTP Applications	Weanlings	Yearlings	Totals
Jan - Mar	0	27	27
Apr - Jun	4	39	43
Jul - Sept	19	49	68
Oct - Dec	30	58	88
Total Applications	53	173	226

2015 DCTP Applications	Weanlings	Yearlings	Totals
Jan - Mar	0	15	15
Apr - Jun	0	28	28
Jul - Sept	14	40	54
Oct - Dec	33	65	98
Total Applications	47	148	195

2016 DCTP Applications	Weanlings	Yearlings	Total
Jan - Mar		13	13
Apr - Jun			0
July - Sept			0
Oct - Dec			0
Total Applications	0	13	13

12/31/15

DCTP Total applications to date 3751

DCTP Horses of Racing Age 3552

DCTP Report - March 2016

	2015	Certifier Amount	Owner Amount	Total for Month
May	\$	40,420.00	\$ 40,420.00	\$ 80,840.00
June	\$	106,880.00	\$ 106,880.00	\$ 213,760.00
July	\$	76,345.00	\$ 76,345.00	\$ 152,690.00
August	\$	92,220.00	\$ 92,220.00	\$ 184,440.00
Sept	\$	131,407.50	\$ 78,157.50	\$ 209,565.00
Oct	\$	49,727.50	\$ 49,727.50	\$ 99,455.00
Dec - (DQ ruling)	\$	2,500.00	\$ 2,500.00	\$ 5,000.00
	\$	499,500.00	\$ 446,250.00	\$ 945,750.00

Year	# of Starters	# of Starts	1st	2nd	3rd	25% DCTP Earnings	25% Certifier Awards	Totals
2016	0	0	0	0	0	\$ -	\$ -	
2015	240	709	97	106	115	\$ 446,250.00	\$ 499,500.00	\$ 945,750.00
2014	271	779	105	105	112	\$ 478,120.75	\$ 531,371.57	\$ 1,009,492.32
2013	270	713	97	99	102	\$ 416,504.00	\$ 470,722.00	\$ 887,226.00
2012	318	943	138	140	146	\$ 437,340.00	\$ 409,503.00	\$ 846,843.00
2011	414	1331	166	189	181	\$ 715,099.86	\$ 773,251.86	\$ 1,488,351.72
2010	364	1150	142	180	146	\$ 705,631.25	\$ 778,203.75	\$ 1,483,835.00
2009	287	922	105	120	121	\$ 511,810.00	\$ 584,382.50	\$ 1,096,192.50
2008	210	690	94	82	109	\$ 367,963.60	\$ 433,265.20	\$ 804,421.80
2007	271	608	90	87	102	\$ 331,809.00	\$ 355,609.00	\$ 687,418.00
2006	139	476	68	61	72	\$ 201,286.80	\$ 214,936.80	\$ 416,223.60
2005	99	366	52	49	53	\$ 179,690.00	\$ 193,340.00	\$ 373,030.00
2004*	56	134	20	19	19	\$ 44,947.00	\$ 44,947.00	\$ 89,894.00
2003*	9	17	7	3	2	\$ 13,505.00	\$ 13,505.00	\$ 27,010.00

Total DCTP \$10,155,687.94

12/31/15

DCTP Total applications to date 3751

DCTP Horses of Racing Age 3552

Delaware Certified Special Acct -Monthly Balance - 2016

	Transactions	Balance
December 2015 - Balance		\$ 105,474.67
January interest	\$ 22.31	\$ 105,496.98
February - DCTP Awards	\$ 1,000,000.00	\$ 1,105,496.98
February - DCTP Administrative Funds	\$ (50,000.00)	\$ 1,055,496.98
February interest	\$ 180.09	\$ 1,055,677.07

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January 28, 2016

Delaware Thoroughbred Racing Commission
John Wayne, Executive Director
777 Delaware Park Boulevard
Wilmington, DE 19804

Re: December 2015 RMTC External Quality Assurance Program (EQAP)

The RMTC recently released the results from the 2nd round of their 2015 RMTC External Quality Assurance Program (EQAP). I am pleased to announce our lab scored 100% on this round of proficiency evaluations. Details on this round are below:

Sample	Matrix	Analyte	Concentration
1	Equine Urine	Oxazepam	105 µg/L (ng/ml)
2	Equine Urine	Blank	Not Applicable
3	Equine Urine	Desipramine	51 µg/L (ng/ml)
4	Equine Urine	Omeprazole Sulfide	10.5 µg/L (ng/ml)
5	Equine Urine	Ractopamine	15.8 µg/L (ng/ml)
6	Equine Blood	Methylprednisolone	505 ng/L (pg/ml)
7	Equine Blood	Ibuprofen	721 µg/L (ng/ml)
8	Equine Blood	Firocoxib	31 µg/L (ng/ml)
9	Equine Blood	Caffeine	257 µg/L (ng/ml)

Please feel free to contact us if you have questions or comments.

Sincerely,
TRUESDAIL LABORATORIES, INC.

Julie Hagihara
Assistant Racing Chemistry Manager